UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,511	05/19/2004	Tadd E. Vanyo	RA 5566 (33012/373/101)	7139

27516   7590   10/30/2008
UNISYS CORPORATION
Unisys Way
Mail Station E8-114
Blue Bell, PA 19424

EXAMINER
HOFFLER, RAHEEM

ART UNIT	PAPER NUMBER
2165	

MAIL DATE	DELIVERY MODE
10/30/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/849,511
Filing Date: May 19, 2004
Appellant(s): VANYO ET AL.

_____

Wayne A. Sivertson, Reg. No. 25,645
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 24 July 2008 appealing from the Office

action mailed 20 February 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

20050262157	Vanyo	11-2005
6240417	Eastwick	5-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 3, 8, 10, and 13-15 are provisionally rejected on the ground of

nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3,

8, 10, 12, 14 and 15 of copending Application No. 10849473 (Vanyo et al) in view of

sharing a common Inventors and Assignees. Although the conflicting claims are not

identical, they are not patentably distinct from each other because of the following

reasons:

Claim 1 of U.S. PG Pub No. 20050262157	Claim 1 of this application
An apparatus comprising:	An apparatus comprising:
A user terminal which generates a first service request,	A user terminal which generates a user request,
A publicly accessible digital data communication network responsively coupled to said user terminal,	A publicly accessible digital data communication network responsively coupled to said user terminal,
A legacy data base management system responsively coupled to said user terminal via said publicly accessible digital data communication network which receives said first service request,	A legacy data base management system having access to at least one data base responsively coupled to said user terminal via said publicly accessible digital data communication network, and
A legacy data base incompatible with, but	a stored procedure having a sequence of

responsively coupled to, said data base management system, and A facility responsively coupled to said legacy data base management system and said legacy data base which permits said legacy data base management system to access said legacy data base in response to said receipt of said first service request.	command script statements responsively coupled to said legacy data base management system which is executed in response to said user request.

This is a <u>provisional</u> obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Note the comparison above, Claim 1 of U.S. PG Pub No. 10849473 teaches of An apparatus comprising a user terminal which generates a first service request, a publicly accessible digital data communication network responsively coupled to said user terminal, a legacy data base management system responsively coupled to said user terminal via said publicly accessible digital data communication network which receives said first service request, a legacy data base incompatible with, but responsively coupled to, said data base management system and a facility responsively coupled to said legacy data base management system and said legacy data base which permits said legacy data base management system to access said legacy data base in response to said receipt of said first service request. Claim 1 of this application claims a number of elements that are commonly shared by U.S. PG Pub No. 10849473. This

application differs in that it teaches of a stored procedure having a sequence of

command script statements responsively coupled to said legacy data base

management system. Therefore, it would have been obvious to one of ordinary skill in

the art at the time the invention was made to remove the legacy database taught by

Vanyo et al and include a sequence of command script statements responsively

coupled to said legacy database management system executed in response to said

user request because of the opportunity to define, initialize, and execute stored

procedures.

Depending claims 2, 4-5, 7, 9, 12, and 17-20 further limit the claims made by this

application that are not met by U.S. PG Pub No. 10849473. For example, claim 4 of

this application recites the limitation "The apparatus ... wherein said at least one data

base further comprises an OLEDB data base."

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claim 6, 7 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

In claim 6, the clause "said publicly accessible digital data base management system" references to other items in the claim. It is unclear what item is being referenced by the clause.

In claim 7, the clause "said command language script" references to other items in the claim. It is unclear what item is being referenced by the clause.

Claim 11 is vague and indefinite because the steps in the body of the claim recite the limitation of "means for..." which has been reasonably construed as the attempt by Applicant to invoke 35 U.S.C. 112, sixth paragraph.

However, the metes and bounds of the claim have not been specifically defined for the limitation of "means for..." in the specification.

The instant disclosure does not define the structures necessary for each "means for 35 U.S.C. 112, sixth paragraph states that a claim limitation expressed in means-plus-function language "shall be construed to cover the corresponding structure...described in the specification and equivalents thereof."

"If one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section 112." In re Donaldson Co., 16 F.3d 1189, 1195, 29 USPQ2d 1845, 1850 (Fed. Cir. 1994) (in banc). (See MPEP 2181 [R-2]).

In claim 16, the clause "the improvement", located within the preamble of the claim, references to other items in the claim. It is unclear what item should be improved and is being referenced by the clause.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 16 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As recited in claim 16, the recited "the improvement" appeared to be a program or data structure. If it's a program, a memory is missing. If it's a data structure, the data structure comprising non functional descriptive materials. A program without a memory or a data structure comprising non functional descriptive materials is non statutory.

Claim 21 is rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility.

With respect to claim 21, the recited apparatus comprising "a user terminal", "a publicly accessible digital data communication network", a "legacy data base

management system" and "a stored procedure". In light of the specification of the

current invention, "user terminal" and "legacy data base management system" are two

different computers. The "publicly accessible digital data communication network" is a

conventional network such as LAN or WAN (Specification, page 11 lines 9-19. An

apparatus is a single device or appliance. No single device or apparatus is able to

include two separated and different computers that connected by a network such as

LAN or WAN. Therefore, the recited apparatus comprising those features is inoperative

and therefore lacks utility.

Claim Rejections – 35 USC 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by

Eastwick et al (US Patent No. 6240417B1).

As for Claim 1, Eastwick et al clearly teaches a user terminal which generates a user

request (e.g., workstation; (col. 2, lines 11-14)(col. 3, lines 65-67- col. 4, lines 1-3)(col.

4, lines 4-22)); b. a publicly accessible digital data communication network responsively

coupled to said user terminal (e.g., "any communication connection"; (col. 3, lines 65-67

– col. 4, lines 1-3)); c. a legacy data base management system having access to at

least one data base responsively coupled to said user terminal via said publicly

accessible digital data communication network (col. 1, lines 56-59; col. 3, lines 13-25);

and c. a stored procedure having a sequence of command script statements

responsively coupled to said legacy data base management system which is executed

in response to said user request (e.g., database integrator; (col. 1, lines 59-67- col. 2,

lines 1-10)(col. 3, lines 25-51)(col. 4, lines 34-42)).

        As for Claim 2, Eastwick et al teaches a user terminal generates a second user

request which causes said legacy data base management system to add parameters to

said stored procedure (col. 6, lines 55-61; col. 7, lines 20-27).

        As for Claim 3, Eastwick et al teaches at least one database further comprises an

ODBC database (col. 3, lines 13-16; col. 7, lines 33-36).

        As for Claim 4, Eastwick et al teaches at least one database further comprises an

OLEDB database (col. 3, lines 13-16; col. 7, lines 33-36). OLEDB can be an equivalent

of ODBC and used in its place. OLEDB is commonly known in the art by definition as

an open specification that can interface with all types of data files on a computer

network.

        As for Claim 5, Eastwick et al teaches a legacy database management system

further comprises BIS (col. 1, lines 56-59; col. 3, lines 13-25; whereas Eastwick's

teachings of a software interface in conjunction with legacy data in a database reads on
Applicant's claim language involving a BIS).

As for Claim 6, Eastwick et al teaches a. transmitting a service request
requesting access to said command language scripted stored procedure from said user
terminal to said legacy data base management system via a publicly accessible digital
data communication network (e.g., transmitting through a network; (col. 2, lines 11-
14)(col. 3, lines 65-67- col. 4, lines 1-3)(col. 4, lines 4-22)); b. receiving said service
request by said legacy data base management system (e.g., integration component;
col. 2, lines 23-33); c. accessing said command language scripted stored procedure in
accordance with said service request (e.g., database integrator; (col. 1, lines 59-67- col.
2, lines 1-10)(col. 3, lines 25-51)(col. 4, lines 34-42)); and d. transferring an appropriate
response from said legacy data base management system to said user terminal via said
publicly accessible digital data base management system (col. 1, lines 59-67- col. 2,
lines 1-10).

As for Claim 7, Eastwick et al teaches executing said command language script
corresponding to said service request (e.g., database integrator; (col. 1, lines 59-67- col.
2, lines 1-10)(col. 3, lines 25-51)(col. 4, lines 34-42)).

As for Claim 8, Eastwick et al teaches a publicly accessible digital data communication network further comprises the Internet (col. 3, lines 65-67 – col. 4, lines 1-3).

As for Claim 9, Eastwick et al teaches transferring a second service request from said user terminal to said legacy database management system which causes said accessing step to enter parameters into said command language scripted stored procedure (e.g., input/parameters; col. 6, lines 55-61; col. 7, lines 20-27).

Claims 10, 14, and 20 differ from Claim 5 in that claim 10 is a method, claim 14 is an apparatus, and claim 20 is an improvement whereas claim 5 is apparatus claim. Thus, claims 10, 14, and 20 are analyzed as previously discussed with respect to claim 5 above.

As for Claim 11, Eastwick et al teaches a. permitting means for permitting a user to transfer a service request via a publicly accessible digital data communication network (col. 3, lines 65-67 – col. 4, lines 1-3); b. offering means responsively coupled to said/permitting means via said publicly accessible digital data communication network for offering legacy data base management services involving access to at least one data base having a scripted command language stored procedure (col. 1, lines 56-59; col. 3, lines 13-25); and c. accessing means responsively coupled to said offering means for accessing said scripted command language stored procedure in response to

said service request (e.g., navigator/terminal emulator; col. 4, lines 42-44, 56-62; col. 6,

lines 39-67- col. 7, lines 1-5).

Claim 12 differs from Claim 7 in that claim 12 is an apparatus whereas claim 7 is

a method claim. Thus, claim 12 is analyzed as previously discussed with respect to

claim 7 above.

As for Claim 13, Eastwick et al teaches a generating means located within said

permitting means for generating a second service request (e.g., navigator; col. 4, lines

56-62; col. 6, lines 39-67- col. 7, lines 1-5).

As for Claim 15, Eastwick et al teaches a permitting means further comprises an

industry standard personal computer (e.g., workstation; (col. 2, lines 11-14)(col. 3, lines

65-67- col. 4, lines 1-3)(col. 4, lines 4-22)).

Claim 16 differs from Claim 11 in that claim 16 is an improvement whereas claim

11 is an apparatus claim. Thus, claim 16 is analyzed as previously discussed with

respect to claim 11 above.

As for Claim 17, Eastwick et al teaches a plurality of variables loaded into said

scripted command language stored procedure in response to said service request (e.g.,

input/parameters; col. 6, lines 55-61; col. 7, lines 20-27).

Claim 18 differs from Claim 2 in that claim 18 is an improvement whereas claim 2 is apparatus claim. Thus, claim 18 is analyzed as previously discussed with respect to claim 2 above.

Claim 19 differs from Claim 8 in that claim 19 is an improvement whereas claim 8 is method claim. Thus, claim 19 is analyzed as previously discussed with respect to claim 8 above.

Claim 21 differs from Claim 1 in that claim 21 is an apparatus for permitting a user to access a stored procedure whereas claim 1 is an apparatus claim. Thus, claim 21 is analyzed as previously discussed with respect to claim 1 above.

(10) Response to Argument

Claims 6, 7, 11 and 16 rejected under 35 USC 112, 2nd paragraph, as indefinite:

It is stated by Appellant that,

"Claim 6 has been rejected as indefinite for an alleged typographical informality, "said publicly accessible digital data base management system", which was contained in The claim at The time of filing, upon examination via The official actions mailed November 9, 2006 and May l, 2007, and upon filing of Applicants' first Appeal Brief filed September 27, 2007 and Applicants' Supplemental Appeal Brief filed November 16, 2007. Though Applicants admit that The phrase could have been more artfully drafted, they deem The phrase not so indefinite as to prevent The Examiner from having examined and rejected The claim on more than one occasion, without comment. It is respectfully submitted that this matter is easily addressed after appeal, if deemed appropriate.

Claim 7 has been rejected under the allegation that the phrase, "said command language script" is indefinite. Again, though Applicants could have more artfully drafted the phrase, it is not deemed indefinite as witnessed by The Examiner's plurality of rejections without comment.

Apparently, claim II has been rejected for the alleged lack of disclosure within the specification of The "means-plus-function" limitations. Applicants respectfully traverse this ground of rejection for the following reasons.

The Examiner has previously examined and rejected claim 11 on a plurality of occasions, without any suggestion of indefiniteness. However, after reviewing Applicants' first Appeal Brief and Supplemental Appeal Brief, The Examiner has now found that The "means-plus-function" limitations of claim II are not supported in The specification, even though, in accordance with 37 C.F.R. 41.37(c) (I) (v), The present Second Appeal Brief[2] contains a mapping of each "means-plus-function" limitation to The specification and drawings within The Summary of The Invention section, above. As such, The limitations of claim ii (along with those of claims 12-13) have been mapped to Applicants' specification and drawings.

Thus, it is not clear whether The Examiner intends to reject claim ii, or is simply objecting to The Supplemental Appeal Brief involving an alleged informality in mapping The elements of claim ii to The specification. In either case, this rejection of claim 11 should be reversed as based upon clearly erroneous findings of fact."

The Examiner respectfully disagrees, and maintains rejection of Claims 6 & 7 under 35 USC 112, 2nd paragraph, as indefinite. Claim 11 rejection under 35 USC 112, 2nd paragraph, in view of 6th paragraph is maintained, specifically at limitation [C], where "the accessing means" need to be clearly defined due to vagueness.

Claims 16 and 21 are not patentable under 35 USC 101, as drawn to non-statutory subject matter and inoperative:

It is stated by Appellant that,

" It seems readily apparent that The Examiner has now belatedly refused to consider the limitations of The preamble of claim 16 as required by MPEP 608.01(m). The rejection of claim 16 should be reversed.

Though the exact nature of The Examiner's position cannot be known from his statements, it appears that she objects to The use of The term "apparatus" in Applicants' claim 21. She seems to reason that "an apparatus" cannot include "two separated and different computers". This statement is contrary to The common usage of The term "apparatus", clearly erroneous as a matter of fact, and clear error of law.

Clearly, the issue is that The "materials or equipment" are combined and/or designed "for a particular use" This definition clearly applies to claim 21.

The Examiner's finding is also clearly erroneous as a matter of fact. A typical modern automobile contains a plurality of "computers" Surely, one would characterize an automobile as "an apparatus" In fact many current day computers actually contain a plurality of computers.

The Examiner's finding is totally unsupported in law. A number of references cited by the Examiner and Of record in this case have claims directed to "an apparatus" having a plurality of computers.

Thus, The Examiner's rejection of claim 21 should be reversed as based upon clearly erroneous findings of fact, inconsistent with common usage of the term "apparatus", and unsupported in law."

The Examiner has been persuaded and rejection to Claims 16 & 21 under 35

USC 101, drawn to non-statutory subject matter and being inoperative has been

withdrawn.

Claim 1 is not anticipated by Eastwick:

It is stated by Appellant that,

"Claim 1, for example, has four basic elements. The first element is "a user terminal which generates a user request" In making her most recent rejection, The Examiner cites workstation 102 of Eastwick. Though Eastwick does not explicitly mention The claimed "user request", apparently The Examiner finds this element to be inherent. However, in doing so, she has failed to comply with MPEP 2112.

The second claimed element is "a publicly accessible digital data communication network responsively coupled to said user terminal". In making her rejection, The Examiner cites Eastwick as stating: "any communication connection". Applicants do not understand The extent of this citation. The only actual examples provided by Eastwick at column 4, lines 2-3 (i.e., "direct connection", "local area network", and "wide area network"), do not meet The limitations of Applicants' claimed invention. As a matter of law (see MPEP 2131), to anticipated Applicants' claimed invention, The network of Eastwick "must be **shown in as complete detail as is contained in The ... claim"**. Surely, The Examiner does not contend The Eastwick meets this requirement. Therefore, Eastwick clearly does not show The "exact invention in as complete detail as is contained in The claim" as specifically required by MPEP 2131.

The third claimed element is "a legacy data base management system having access to at least one data base responsively coupled to said user terminal via said publicly accessible digital data communication network". Without addressing The Examiner's findings in detail with regard

to this claimed element, it is clear that Eastwick cannot meet this limitation, because it does not
have The claimed "publicly accessible" coupling network.

The fourth claimed element is "a stored procedure having a sequence of command script
statements responsively coupled to said legacy data base management system **which is
executed by said** legacy data **base management** system in response to said user request". As
explained above, this limitation cannot be met by "database integrator" 314 of Eastwick, as
alleged by The Examiner, because it is not stored within nor executed or executable by The
legacy data base management system. Furthermore, The disclosed "database integrator" 314
of Eastwick does not meet The common definition of The "stored procedure" (see The FOLDOC
definition provided above). "

       The Examiner respectfully disagrees. Examiner contends that all limitations are

taught by the reference of Eastwick. The first limitation is taught by Eastwick, where a

workstation (102), equivalent to Applicant's "user terminal", is taught at col. 2, lines 11-

14. Since this workstation (102) is connected to a network connection (col. 4, lines 2-3)

such as a local area connection, it is safe to say that communication is sent and

received over a "publicly accessible data communication network responsively coupled

to said user terminal". The third limitation, which is a "legacy database", is clearly

taught by Eastwick at col. 3, lines 13-25 and is coupled to said workstation (102) by a

"public" communication network.   The fourth limitation taught by Eastwick is "a stored

procedure...coupled to said legacy database management system...and executed...in

response to said user request", found at (col. 1, lines 59-67- col. 2, lines 1-10)(col. 3,

lines 25-51)(col. 4, lines 34-42) with a database integrator. The database integrator

performs the same task by "providing access to the data of the legacy DBMS by issuing

commands to the server program via a terminal emulation session...displays the

appropriate data on its user interface".

Claims 2-5 are not anticipated by Eastwick:

It is stated by Appellant that,

"It is stated by Appellant that Examiner has failed to meet the limitations of

Claims 2-5 and has erroneously examined the limitations of the aforementioned claims

by making irrelevant equivalency assumptions that do not address Applicants' claimed

invention. The Examiner respectfully disagrees and maintains that the exact invention

provided through Applicants' claim language is the identical invention taught by

Eastwick. For example, Claim 3 recites "at least one database further comprises an

ODBC database" This limitation is explicitly recited at col. 3, lines 13-16; col. 7, lines 33-

36, stating an ODBC interface.

Claim 6 is not anticipated by Eastwick:

It is stated by Appellant that,

"Claim 6 is an independent method claim having four key steps. Claim 6 is "method of
utilizing a user terminal to access a command language scripted stored procedure within a
legacy data base management system having at least one data base. The claim requires that
the claimed stored procedure" be located "with a legacy data base management system".
Ignoring Applicants' claimed invention, The Examiner clearly erroneously finds:

Eastwick et al. teaches a. transmitting a service request requesting access to said command
language scripted stored procedure....

The request (if any) is not "transmitted" as found by The Examiner, because The "stored
procedure" alleged by The Examiner is located within workstation 102, as explained above.

The second claimed step requires "receiving said service request by said legacy data base
management system". This step is not found in Eastwick, because the request (if any) must be
modified by "database integrator" 314 before transfer from workstation 102. As a result, the
claimed "request" is neither "transmitted" (i.e., step a) nor "received" (i.e., step b) as
claimed, but is simply converted by "database integrator" 314 within workstation 102."

The Examiner respectfully disagrees. Transmitting a request is clearly taught through the cited areas of Eastwick; transmitting through a network; (col. 2, lines 11-14)(col. 3, lines 65-67- col. 4, lines 1-3)(col. 4, lines 4-22). Eastwick is also associates that step with an integration component; col. 2, lines 23-33) a database integrator; (col. 1, lines 59-67- col. 2, lines 1-10)(col. 3, lines 25-51)(col. 4, lines 34-42)); and transferring an appropriate response from said legacy data base management system to said user terminal via said publicly accessible digital data base management system (col. 1, lines 59-67- col. 2, lines 1-10). Eastwick's teachings are equivalent to Applicants' limitations.

Claims 7-10 are not anticipated by Eastwick:

It is stated by Appellant that Examiner has failed to meet the limitations of Claims 7-10 and has erroneously examined the limitations of the aforementioned claims by making irrelevant equivalency assumptions that do not address Applicants' claimed invention. The Examiner respectfully disagrees and maintains that the exact invention provided through Applicants' claim language is the identical invention taught by Eastwick. For example, Claim 7, which depends on rejected Claim 6, recites "executing said command language script corresponding to said service request". This limitation is clearly taught by Eastwick at (col. 1, lines 59-67- col. 2, lines 1-10)(col. 3, lines 25-51)(col. 4, lines 34-42), where a database integrator is taught. The database integrator performs that same task mentioned by Claim 7 converting "commands into server program-specific commands to manipulate the user interface of the server program,

connects to the server program over a terminal emulation session, and issues the

server program-specific commands to the server program by using the terminal

emulator. These server program-specific commands manipulate the server program's

user interface to display the appropriate data so that the database integrator can access

it."

Claim 11 is not anticipated by Eastwick:
It is stated by Appellant that,

"Claim 11 is an independent apparatus claim having three "means-plus-function"
limitations. Therefore, claim ii is to be examined in accordance with MPEP 2181-2184.
Apparently, this has not been done, because MPEP 2181 requires The Examiner to explicitly
acknowledge The "means-plus-function" limitations, which she has not done.

The second element of claim 11 is "offering means responsively coupled to said permitting
means via said publicly accessible digital data communication network for offering legacy data
base **management services involving access to at least one data base having a scripted
command language stored procedure". It** specifically requires that The claimed "stored
procedure" be located within The claimed "data base" of The claimed "offering means".
Therefore, The Examiner cites material (e.g., column 1, lines 56-59) supporting Applicants'
position that Eastwick cannot meet this limitation stating in part:

The application program ("client program") is located on a workstation....Thus, DB Integrator
314 is located within workstation 102 (see Fig. 3).

Nevertheless, in finding The third claimed element, The Examiner completely ignores claim
element b and again relies upon functions performed within workstation 102. As explained
above, The claimed "stored procedure" must be executed by The claimed ~offering means".
The rejection of claim II, and all claims depending therefrom, should be reversed."

The Examiner respectfully disagrees. The offering means taught by the second

limitation of Claim 11, is explicitly taught at col. 1, lines 56-59; col. 3, lines 13-25.

Although the workstation applications and the legacy database are not physically

present within the same entity, as recited by Eastwick, there is no language preventing

that teaching from existing within Eastwick's invention. Applicant's argument is not

explicitly recited within the claim language of Claim 11 in order to substantiate the

limitation. The navigator/terminal emulator taught by Eastwick at col. 4, lines 42-44, 56-

62; col. 6, lines 39-67- col. 7, lines 1-5 clearly reads on Applicant's third limitation where

"accessing means responsively coupled to said offering means for accessing said

scripted command language stored procedure in response to said service request".

Claims 12-21 are not anticipated by Eastwick:

It is stated by Appellant that Examiner has failed to meet the limitations of Claims

12-21 and has erroneously examined the limitations of the aforementioned claims by

making irrelevant equivalency assumptions that do not address Applicants' claimed

invention.

The Examiner respectfully disagrees and maintains that the exact invention

provided through Applicants' claim language is the identical invention taught by

Eastwick. For example, Claim 14, which was examined with the same rational as

rejected Claim 5, was rejected with the equivalency that states "Eastwick's teachings of

a software interface in conjunction with legacy data in a database reads on Applicant's

claim language involving a BIS" Claim 5 recites, "a legacy database management

system further comprises BIS". The "BIS" component is a business information system

coupled to a legacy database system, perhaps for the purpose of accessing and

manipulating data, in the same fashion as the teachings of Eastwick, in which a legacy

database management system (DBMS) is access for data retrieval and manipulation by

the open database connectivity interface (ODBC). Examiner maintains rejection of

Claims 12-21.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Raheem Hoffler/

Examiner, Art Unit 2165

Conferees:

/Vincent F. Boccio/

Primary Examiner, Art Unit 2169

/Christian P. Chace/

Supervisory Patent Examiner, Art Unit 2165